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Paper No. 6

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OFFICE OF PETITIONS

In re Application of :
Walter Best :
Application No. 09/989,719 : ON PETITION
Deposited: November 21, 2001 :
Attorney Docket No.: 16202.660 :

This is a decision on the petition to accord filing date filed April 5, 2002, requesting that the above-identified application be accorded a filing date of November 21, 2001.

Application papers in the above-identified application were filed on November 21, 2001. However, on February 8, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.¹

In response, 5 sheets of drawings, including figures 1-9 and the present petition were filed on April 5, 2002. The petition contends that the application as filed included figures 1-9 and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "drawings (5 sheets)" on November 21, 2001.

Applicant's postcard receipt is prima facie² evidence that drawings were received on November 21, 2001, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 5 sheets of drawings, including figures 1-9, were received on November 21, 2001, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

¹See 35 U.S.C. 111(a) (4)

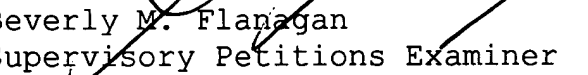
²A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on April 5, 2002, will be used for processing and examination purposes.

No petition fee is due.

The application will then be returned to the Office of Initial Patent Examination for further processing with a filing date of November 21, 2001, using the 5 sheets of drawings supplied on April 5, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.


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for Patent Examination Policy